

Annex

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: English

No.: ICC-01/18
Date: 12 July 2024

PRE-TRIAL CHAMBER I

Before: Judge Iulia Motoc , Presiding Judge
Judge Reine Alapini-Gansou
Judge Nicolas Guillou

SITUATION IN THE STATE OF PALESTINE

Secret

**Request by Chile and Mexico for leave to submit written observations pursuant to
Rule 103(1) of the Rules of Procedure and Evidence**

Source: Chile and Mexico

Document to be notified in accordance with regulation 31 of the *Regulations of the Court* to:

The Office of the Prosecutor 	Counsel for the Defence
Legal Representatives of the Victims	Legal Representatives of the Applicants
Unrepresented Victims	Unrepresented Applicants (Participation/Reparation)
The Office of Public Counsel for Victims	The Office of Public Counsel for the Defence
States’ Representatives	Amicus Curiae

REGISTRY

Registrar Mr Osvaldo Zavala Giler	Counsel Support Section
Victims and Witnesses Unit	Detention Section
Victims Participation and Reparations Section	Other

I. Introduction

1. On 10 June 2024, the United Kingdom of Great Britain and Northern Ireland ("United Kingdom") filed a request for leave to submit written observations pursuant to Rule 103 of the Rules of Procedure and Evidence (the "Rules"), invoking the existence of "outstanding jurisdictional issues" in the Situation in the State of Palestine, arising from the application of the Oslo Accords. The United Kingdom claims that these issues are relevant in determining the Prosecutor's application for arrest warrants in the Situation in the State of Palestine that were announced on 20 May 2024, and included two Israeli nationals.
2. By the 'Order deciding on the United Kingdom's request to provide observations pursuant to Rule 103(1) of the Rules of Procedure and Evidence, and setting deadlines for any other requests for leave to file amicus curiae observations', of 27 June 2024, Pre-Trial Chamber I of the International Criminal Court (the "Court") authorized the United Kingdom to file written observations pursuant to Rule 103 of the Rules by 12 July 2024., and set the deadline for any other requests for leave to make observations pursuant to Rule 103 of the Rules, for 12 July 2024.
3. On 2 July 2024, the United Kingdom requested an extension of time to submit its written observations, which was granted by Pre-Trial Chamber I by Decision of 4 July 2024, authorizing the United Kindgom to file its observations by 26 July 2024.

II. Chile's interest in these proceedings

4. Chile is a strong and historic supporter of the work of the Court, having ratified the Rome Statute on 29 June 2009. Chile is well-known for its public advocacy

of international justice, and its continuous support of the Court's independence and impartiality, including by reiterated calls to ensure that all the Court's officials can work free from any threats and sanctions. To this date, of all State Parties to the Statute, Chile is the one that has referred the highest number of situations to the Prosecutor of the Court under Article 13 (a) of the Rome Statute, reflecting the country's commitment to the Rome Statute system, multilateralism, and justice.

5. As one of the States that referred the Situation in the State of Palestine to the Prosecutor on 18 January 2024 (together with Mexico), Chile is interested in presenting its observations on whether the Court can exercise jurisdiction over Israeli nationals, and on the proper interpretation of the Oslo Accords in this regard.

III. Mexico's interest in these proceedings

6. Mexico is a long-term Party to the International Criminal Court. It ratified the Rome Statute on 28 October 2005. In these years, Mexico has reiterated its exhaustive commitment to international justice, the prevention and punishment of international crimes, and access to justice for victims. Mexico has also expressed support to the role of the International Criminal Court as the world's only international jurisdictional authority mandated with prosecuting and determining individual international criminal responsibility for atrocity crimes.
7. Mexico's referral of the Situation in the State of Palestine as a joint effort with Chile, reflects this commitment to cooperate with the Court in all its endeavors, including the investigation of the Situation in the State of Palestine. For these reasons, Mexico is interested in presenting its observations on whether the Court can exercise jurisdiction over Israeli nationals, the relevance of the

principle of complementarity, and on the interpretation of the Oslo Accords in light of the relevant provisions of the Statute.

IV. Scope of Chile and Mexico's observations and reasons for granting leave

8. As explained, Chile and Mexico request leave to present written observations on whether the Court can exercise jurisdiction over Israeli nationals, the relevance of the principle of complementarity, and on the proper interpretation of the Oslo Accords in this regard.
9. Chile and Mexico note that, pursuant to the case law of the Court, "the first and foremost factor for leave to be granted pursuant to rule 103 of the Rules is whether the relevant application relates to an issue that is actually before the competent Chamber".¹
10. In the present situation, considering that the Chamber has already granted leave to the United Kingdom to file written observations on this topic, the issue of whether the Oslo Accords present a barrier to the exercise of jurisdiction by the Court with respect to Israeli nationals is currently before this Chamber. In this context, other State Parties to the Rome Statute, especially those that have shown particular interest in the Situation in the State of Palestine, should also be granted leave to present their written observations.
11. The Court has also considered if the observations, for which the leave to present is being requested, may assist the relevant Chamber in the proper

¹ See Pre-Trial Chamber I, *Situation in Darfur, Sudan*, "Decision on Application under Rule 103", ICC-02/05-185, 4 February 2009, para. 8.

determination of the case.² Chile and Mexico respectfully submit that the Chamber may benefit from written observations from different countries and relevant stakeholders to gain a proper and complete understanding of the legal issues at hand. Considering the views of only one State would clearly be insufficient.

12. Finally, the Court has also examined whether allowing submissions under Rule 103 would be appropriate, considering the Chamber's duty to ensure the expeditiousness of the proceedings.³ In the present case, considering the strict timeframe established by the Court on its 27 June 2024 Order, and having regard to the extension of time limit given to the United Kingdom for its submissions, Chile and Mexico submit that additional written submissions under Rule 103 may not significantly impact the expeditiousness of the proceedings.

V. Request for Reclassification

13. Chile and Mexico have filed this request for leave as Secret, following Pre-Trial Chamber I's practice that all filings in the Situation in the State of Palestine must be classified as Secret.

14. However, considering the previous decision of the Chamber to reclassify the United Kingdom request for leave as public, Chile and Mexico request that this submission be also reclassified as public.

² See Appeals Chamber, *The Prosecutor v. Thomas Lubanga Dyilo*, "Decision on 'Motion for Leave to File Proposed Amicus Curiae Submission of the International Criminal Bar Pursuant to Rule 103 of the Rules of Procedure and Evidence'", ICC-01/04-01/06-1289, 22 April 2008, para. 8.

³ See Pre-Trial Chamber II, *The Prosecutor v. Joseph Kony, Vicent Otti, Okot Odhiambo & Dominic Onwen*, "Decision on application for leave to submit observations under Rule 103", ICC-02/04-01/15-125, 5 November 2008, para. 11.

VI. Relief requested

15. For all the preceding reasons, Chile and Mexico respectfully request permission to submit written observations pursuant to Rule 103 of the Rules, on the issue of the Court's jurisdiction in relation to Israeli nationals, the relevance of the principle of complementarity, and on the proper interpretation of the Oslo Accords in this regard. Chile and Mexico further request that this submission be reclassified as public.

Respectfully submitted,



Jaime Moscoso Valenzuela

Ambassador of the Republic of Chile to the Kingdom of the Netherlands
on behalf of the Republic of Chile



Carmen Moreno Toscano

Ambassador of Mexico to the Kingdom of the Netherlands
on behalf of the United Mexican States

Dated this 12 July 2024

At The Hague, The Netherlands